

COMMONWEALTH OF MASSACHUSETTS

BRISTOL, ss.

SUPERIOR COURT DEPARTMENT OF
THE TRIAL COURT

NO. 2013-CR-00983

COMMONWEALTH OF MASSACHUSETTS

vs.

AARON J. HERNANDEZ

DEFENDANT-APPELLANT AARON J. HERNANDEZ'S
MOTION TO STRIKE IRRELEVANT MATERIALS
SUBMITTED BY THE COMMONWEALTH

Counsel for Aaron J. Hernandez moves to strike the following materials submitted by the Commonwealth in this proceeding, on the grounds that these materials are irrelevant: [1] the death certificate appended to the Commonwealth's May 1, 2017 Opposition; and [2] Commonwealth's Supplement To Motion And Memorandum In Opposition To Defendant's Motion To Abate Prosecution, and the two documents appended to it. In support of this motion, the defense states:

1. The issues presented by April 20, 2017 Notice Of Death And Motion To Abate Prosecution do not depend on resolution of any contested issues of fact. The Commonwealth concedes that Mr. Hernandez died during the

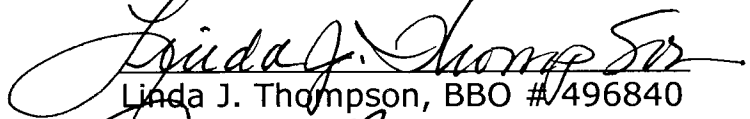
pendency of his direct appeal. Opposition, pp. 1-2. Invariably, in these circumstances, abatement *ab initio* is required.

2. The Death Certificate appended to the Commonwealth's Opposition is irrelevant because the fact of Hernandez's death is not in dispute, and the purported manner of death and description of how the injury occurred are both irrelevant to any issue – presented by Hernandez's Motion or the Commonwealth's Opposition – that this Court must decide.

3. The Commonwealth's Supplement To Motion And Memorandum In Opposition To Defendant's Motion To Abate Prosecution, and the two documents appended to it, should be stricken. This submission falls outside the scope of the Court's April 26, 2017 Order and was filed without permission. The documents appended to it are irrelevant to any issue – presented by Hernandez's Motion or the Commonwealth's Opposition – that this Court must decide.

4. The defense requests that this Motion To Strike be considered contemporaneously with the Motion For Abatement Of Prosecution.

Respectfully submitted,


Linda J. Thompson, BBO # 496840


John M. Thompson, BBO # 496780
THOMPSON & THOMPSON, P.C.
1331 Main Street, Suite 320
Springfield, MA 01103
[413] 739-2100
[413-739-2300 fax
habeasjohn@ttpclaw.com
Attorneys for AARON J. HERNANDEZ

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document has been served upon District Attorney Thomas M. Quinn, P.O. Box 973, 888 Purchase Street, New Bedford, MA 02741 and by email to: megan.borges@state.ma.us this 8th day of May, 2017.


John M. Thompson